

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Daisuke Matsubara et al.

Application No.: 09/816,067

Filed: March 22, 2001

For: METHOD AND APPARATUS FOR
PROVIDING A QUALITY OF SERVICE
PATH THROUGH NETWORKS

Customer No.: 20350

Confirmation No. 2693

Examiner: Daniel J. Ryman

Technology Center/Art Unit: 2616

RENEWED PETITION UNDER

37 C.F.R. SECTION 1.137(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 17, 2007 (e-filed)

Sir:

This renewed petition is submitted in response to an Office action mailed July 9, 2007 dismissing an earlier-filed renewed petition.

Submitted herewith are the following four appendices of documents submitted in the original filing of the petition to revive an unavoidably abandoned application, mailed February 14, 2007:

Appendix A - copy of stamped postcard of (1 page)

Appendix B - transmittal form (1 page)

Appendix C - petition to revive (3 pages)

Appendix D - docket records (2 -pages)

An RCE is submitted herewith including an amendment (originally filed February 14) as the submission and an appropriate fee transmittal, to correct the deficiency in the earlier-filed renewed petition.

Respectfully submitted,

/George B. F. Yee/

George B. F. Yee
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400 / Fax: 415-576-0300
Attachments
GBFY
61101395 v1

APPENDIX A

FILING ACKNOWLEDGMENT

Mailing Date: 2/12/07
File No.: 16869P-023900US Attorney: GBFY:cmm
Inventor(s): Daisuke Matsubara et al.
Title: Method and Apparatus for Providing a Quality of Service Path Through Networks
Re: Application No. 09/816,067; Filing Date: March 22, 2001

Enclosed: Transmittal Form, Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) (in dup.), Exhibit A, Amendment, and postcard.

Please stamp the date of receipt of the enclosed documents and return this card to address:
60939727 v1



COPY

APPENDIX B

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

19

Application Number

09/816,067

Filing Date

March 22, 2001

First Named Inventor

Matsubara, Daisuke

Art Unit

2616

Examiner Name

Daniel J. Ryman

Attorney Docket Number

16869P-023900US

ENCLOSURES (Check all that apply)

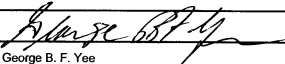
- | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input checked="" type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
<input type="checkbox"/> Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Exhibit A
Return Postcard |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	George B. F. Yee		
Date	February 12, 2007	Reg. No.	37,478

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Cynthia McKinley

Date

February 12, 2007

APPENDIX C

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
16869P-023900US

First named inventor: Daisuke Matsubara

Art Unit: 2616

Application Number: 09/816,067

Examiner: Daniel J. Ryman

Filed: March 22, 2001

Title: Method and Apparatus for Providing a Quality of Service Path Through Networks

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- ☐ Small entity — fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Other than small entity — fee \$ 500 (37 CFR 1.17(l)).

2. Reply and/or fee

- A The reply and/or fee to the above-noted Office action in the form of
Amendment (identify the type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

- B The issue fee of \$ _____

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☒ For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.

5. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

George B. F. Yee
Signature

2/13/2007
Date

George B. F. Yee

37,478

Typed or printed name

Registration Number, if applicable

Two Embarcadero Center, Eighth Floor

650-326-2400

Address

Telephone Number

San Francisco, California 94111-3834

Address

Enclosure



Fee Payment



Reply



Terminal Disclaimer Form



Additional sheets containing statements establishing unavoidable delay

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

2/12/07

Date

Signature

Cynthia McKinley

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

George B. F. Yee
Signature

2/12/07
Date

George B. F. Yee
Typed or printed name

37,478
Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The Office action mailed May 16, 2006 was never received by Applicant or by Applicant's legal representatives. The mailing address properly identifies Applicant's legal representatives. However, a review of the file jacket and of the docket records (Exhibit A) maintained by Applicant's legal representatives indicates that the Office action was never received. Neither Applicant nor Applicant's legal representatives knew of the mailing of the Office action. As of the date of this statement, the Office action has not been received by Applicant or Applicant's legal representatives; the Office action is presumed to have been lost in the U.S. Post Office, or never actually left the U.S. PTO.

Applicant and Applicant's legal representative first became aware of the Office action on November 15, 2006, one day prior to the expiration of the maximum statutory period for responding to the Office action. Due to lack of time, a proper response could not be prepared in time for filing. Consequently, the application became unavoidably abandoned.

Since the application became abandoned, Applicant took action to assess whether or not to proceed with reviving the application. Having decided to proceed to revive the application, Applicant took action to study and prepare instructions for counsel to draft a proper response to the Office action. Instructions from Applicant were received on January 31, 2007 by counsel of record.

(Please attach additional sheets if additional space is needed.)

APPENDIX D

Prosecution Docket Report

For: Hitachi, Ltd.

Country: For US Matters

Start Date: 8/1/2006

End Date: 11/30/2006

Date Type: Both Due and Reminder Dates

Date Client/Matter (Pat/TM) (Client Reference No.)	Action/Events Notes	Title/Mark Client	App - Reg No Filing - Issue Date	Country Status	Bill - Resp Party Other Attys
Due Date: 08/01/2006 16869B-126510US (Pat) {HAL-ID 346}	IDS (Inf/Discl.Stmt.) deadline original target filing date 8-3-05	Method for Managing Volume Groups Considering Storage Tiers Hitachi, Ltd.	11/415592 7155593 5/1/2006 12/26/2006	US Granted	RCC - R/H GBY
Due Date: 08/03/2006 16869B-0115500US (Pat) {HAL 328}	Target Filing Date - 12 mo. Reminder original target filing date 8-3-05	Data Discovery and Location Management Hitachi, Ltd.		US Not yet filed	GBY - RCC
Due Date: 08/12/2006 16869B-063900US (Pat) {HAL-ID 238}	Response Interview Summary 07/12/06 (received 07/17/06)	Method and Apparatus for Data Integration Hitachi, Ltd.	10/660278 7143112 9/10/2003 11/28/2006	US Granted	RCC - GBY GBY
Due Date: 09/04/2006 16869B-098300US (Pat) {HAL-ID 289}	Response Interview Summary 08/04/06 (received 08/11/06)	Distributed Data Management System Hitachi, Ltd.	10/806998 3/22/2004	US Pending - Published	RCC - SAR SAR
Due Date: 09/19/2006 16869B-089600US (Pat) {HAL 284}	Response Petition DISMISSED 07/19/06 (received 07/26/06)	Method and Apparatus for Limiting Access to a Storage System Hitachi, Ltd.	10/759581 1/16/2004	US Pending - Published	RCC - GBY GBY
Due Date: 09/28/2006 16869B-149700US (Pat) {HAL-ID 366}	Check PAIR for 1st OA	Management of Encrypted Storage Networks Hitachi, Ltd.	11/239549 9/28/2005	US Pending	RCC - R/H
Due Date: 09/29/2006 16869B-098410US (Pat) {HAL300CON1}	IDS (Inf/Discl.Stmt.) deadline	Method and Apparatus for Multistage Volume Locking Hitachi, Ltd.	11/479454 6/29/2006	US Pending - Published	RCC - R/H
Due Date: 11/02/2006 16869B-098210US (Pat) {HAL-ID 288}	IDS (Inf/Discl.Stmt.) deadline	Long Term Data Protection System and Method Hitachi, Ltd.	11/498449 7177995 8/2/2006 2/13/2007	US Granted	RCC - CRF GBY
Due Date: 11/24/2006 16869B-080610US (Pat) {HAL268con1}	IDS (Inf/Discl.Stmt.) deadline	Point In Time Remote Copy for Multiple Sites Hitachi, Ltd.	11/510382 8/24/2006	US Pending - Published	RCC - R/H GBY

COPY

Date Client/Matter (Pat/TM) {Client Reference No}	Action/Events Notes	Title/Mark Client	App - Reg No Filing - Issue Date	Country Status	Bill - Resp Party Other Attys
Due Date: 11/29/2006 16869B-113110US (Pat) {HAL 322com1}	IDS (Inf.Discl.Smt.) deadline {HAL 322com1}	Method for Data Protection In Disk Array Systems Hitachi, Ltd.	11/512664 8/29/2006	US Pending - Published	RCC - R/H GEY

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